

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

CARMEN HENDRICKSON-ATKINSON
ADC #706830

PETITIONER

VS.

5:05CV00099 JMM/JTR

LARRY NORRIS, Director,
Arkansas Department of Correction

RESPONDENT

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge J. Thomas Ray and the objections filed by Petitioner. After carefully considering these documents and making a *de novo* review of the record in this case, the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects.

In her objections, petitioner raised a defense of actual innocence based upon a faulty information. This defense was not addressed by Magistrate Judge in his Proposed Findings and Recommendation as it was not specifically raised in petitioner's original *habeas* petition.

The Court has considered petitioner's argument and finds it to be without merit because she failed to present this claim to the state court. Petitioner is procedurally barred from asserting her new claim in a federal *habeas* unless she can establish cause for this procedural default and a resulting prejudice, or demonstrate that a failure to consider the claims will result in a fundamental miscarriage of justice. She has failed to do so.

Even if the Court were to address the merits of the claim, it would find that it is without merit as under Arkansas law, the information, while containing one instance of an incorrect statute number, is sufficient to meet the requirements of notice under federal and state law. *See Hagen v. State*, 315 Ark. 20, 864 S.W.2d 856 (1993); *Goodloe v. Parratt*, 605 F.2d 1041 (8th Cir. 1979). The Court also finds that a hearing on this matter is not warranted. *See* 28 U.S.C. § 2254(e)(2).

Judgment will be entered accordingly.

IT IS THEREFORE ORDERED that the Petition for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2254 (docket entry #2) is DENIED, and this habeas action is DISMISSED, WITH PREJUDICE.

Dated this 8 day of August, 2007.


UNITED STATES DISTRICT JUDGE